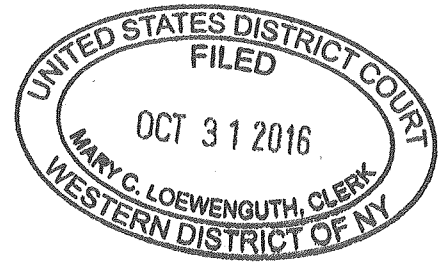


Revised 03/06 WDNV

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORKFORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

16 CV 866

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. **Full Name And Prisoner Number of Plaintiff:** NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Jerome Nathan Grant 15114-055

2. _____

-VS-

B. **Full Name(s) of Defendant(s)** NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. UNITED STATES Marshal Service Western - 4. _____

2. District of New York PMR# 73897 5. _____

3. Steven Wolf 6. _____

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: Jerome Nathan Grant 15114055

Present Place of Confinement & Address: 4284 State Route 195 Belmont, NY 14813

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: *To provide information about more defendants than there is room for here, use this format on another sheet of paper.*

Name of Defendant: United States Marshals Service Western District of New York
 (If applicable) Official Position of Defendant: United States Marshals / Steven Wolf
 (If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity
 Address of Defendant: 2 Niagra Square, Buffalo, NY 14202

Name of Defendant: _____
 (If applicable) Official Position of Defendant: _____
 (If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity
 Address of Defendant: _____

Name of Defendant: _____
 (If applicable) Official Position of Defendant: _____
 (If applicable) Defendant is Sued in _____ Individual and/or _____ Official Capacity
 Address of Defendant: _____

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes _____ No X

If Yes, complete the next section. NOTE: *If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:
 Plaintiff(s): _____
 Defendant(s): _____
2. Court (if federal court, name the district; if state court, name the county): _____
3. Docket or Index Number: _____
4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

_____ Dismissed (check the box which indicates why it was dismissed):

_____ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

_____ By court for failure to exhaust administrative remedies;

_____ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

_____ By court due to your voluntary withdrawal of claim;

_____ Judgment upon motion or after trial entered for

_____ plaintiff

_____ defendant.

B. Have you begun **any other lawsuits in federal court** which **relate to your imprisonment**?

Yes _____ No X

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. District Court: _____

3. Docket Number: _____

4. Name of District or Magistrate Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved. _____

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|--------------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • <u>Denial of Medical Treatment</u> |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) 2/17/2015

defendant (give the **name and position held** of **each defendant** involved in this incident) Steven Wolf

The United States Marshals Service of Western District of New York (Buffalo)

did the following to me (briefly state what each defendant named ^{Steven Wolf} above did): The United States Marshals Service of Western District of New York Denied me medical Treatment

The constitutional basis for this claim under 42 U.S.C. § 1983 is: Failed to provide adequate ^{Dental} medical care in violation of my Constitutional Rights. Eighth Amendment Denial of Medical Treatment

The relief I am seeking for this claim is (briefly state the relief sought): \$2,500,000.00

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes ☒ No _____ If yes, what was the result? _____

Did you appeal that decision? _____ Yes ☒ No _____ If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: _____

A. SECOND CLAIM: On (date of the incident) _____

defendant (give the **name and position held** of **each defendant** involved in this incident) _____

did the following to me (briefly state what each defendant named above did): _____

The constitutional basis for this claim under 42 U.S.C. § 1983 is: _____

The relief I am seeking for this claim is (briefly state the relief sought): _____

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? _____ Yes ☒ No If yes, what was the result? _____

Did you appeal that decision? _____ Yes ☒ No If yes, what was the result? _____

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: I did not Exhaust the Administrative Remedies because the Allegany County Jail did Everything Right the U.S marshals Told Them NO See Attached Papers

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

I Request the Relief of 2, Point 5 million Dollars Because for Two years I've been in Extream Pain I've had to eat with only one Side of my mouth my Tooth Has been infected numerous times due to the marshals denring me the Proper medical treatment

Do you want a jury trial? Yes ☒ No _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/15/2016
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*



Signature(s) of Plaintiff(s)



**ALLEGANY COUNTY
OFFICE OF THE SHERIFF
JAIL DIVISION
SICK CALL RESPONSE**

Handwritten initials "GA" with a large "A" below them.

DETAINEE NAME/NUMBER: Jerome Grant 15-029

DATE: 02/17/15

COMMENTS:

The process for the root canal is:

1. See the dentist here: you have done that
2. Send the note to OIMS (which is the office for USMS inmates that approves or denies care), that has been done on 02/13/15
3. Wait for a response.

So I am waiting for a response back from OIMS as to whether or not they will approve or deny the request for a root canal. I do not need to contact your lawyer. You are already being treated for infection. If the request is denied by OIMS, then I will let you have a copy of the denial and you can do what you want with it at that point. If it is approved an appointment will be made

Medical Provider's Signature: *Chadwick FAP*

Appendix cc

PMR

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UNITED STATES MARSHALS SERVICE
 WESTERN DISTRICT OF NEW YORK
 PMR#: 73897

TEL _____ FAX _____



PRISONER MEDICAL REQUEST

TO BE COMPLETED BY DETENTION FACILITY AND USMS DISTRICT OFFICE (as applicable):

NON-EMERGENCIES: Prior to seeking outside medical attention for a prisoner, complete form and fax to USMS District Office at fax number above. USMS will notify you of approval or denial of the request.

EMERGENCIES: obtain treatment, notify USMS as soon as possible and fax this form within 24 hrs.

Prisoner name: GRANT, JEROME USMS No.: 15114-055 DOB: 1980-12-08

Private Insurance: YES ☐ NO ☒ If yes, Provider Name: _____

Detention Facility: Allegany County Jail Contact Person: CHERYL

Telephone No.: (585) 268-9485 Fax No.: _____

Date & Time USMS Notified of Request: 2/17/2015 8:48:00 AM

Description of Requested Service(s) or Hospitalization and Reason for Service(s):

Attach Medical or Dental Notes to Support Request or note below if Court-ordered.

Over The Counter (OTC) medications are covered by the per diem rate as part of inside medical care.

OTCs should be provided by the jail without additional cost to the USMS.

WAS SEEN BY DENTIST HERE AND WANTS TO BE SEEN FOR A ROOT CANAL. THAT HE STATES WAS SCHEDULED SEPTEMBER OR 2014 BUT WAS NOT DONE. SEE NOTE ON BACK OF PMR. Jail states they have no other documentation.

Urgency of Request: Emergency-Notification ☐ (< 2 wks) ☒ (2-6 wks) ☐ (>6 wks) ☐

☐ Hospitalization Admission Date of Admission: _____

Facility/Hospital/Pharmacy providing service: NONE LISTED Appt. Date: _____

Hospital Point of Contact: _____ Phone No.: _____

Health Care Provider providing service: NONE LISTED Appt. Date: _____

NOTE: By law, USMS may only pay Medicare rates or less.

TO BE COMPLETED BY USMS DISTRICT OFFICE:

Medical Request is: Approved ☐ Referred to OIMS ☒ (Districts are not authorized to deny medical requests)

District Representative Signature: BP Date: 2/17/2015 8:49:40 AM

Deputies Handling Prisoner: Facility Guards / _____

TO BE COMPLETED BY USMS OFFICE OF INTERAGENCY MEDICAL SERVICES (OIMS):

OIMS REVIEW: Approved: ☐ Denied: ☒ Deferred: ☐ Notified/Acknowledged: ☐

OIMS and Physician Comments:

Request for root canal treatment is DENIED. Extraction is authorized if required to relieve pain/infection.

Comment: Prisoner requests root canal, tooth #14, which he states was scheduled prior to his incarceration. The jail dentist notes that gross decay of the tooth is present and has prescribed antibiotics for temporary management. The dentist indicates that the options are root canal treatment or extraction. The USMS does not routinely authorize endodontic treatment (root canal) and associated restorative work to preserve teeth.

PMR

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not routinely authorize endodontic treatment (root canal) and associated restorative work to preserve teeth during the limited duration of USMS custody. If required for relief of pain and suffering, extraction is authorized. Please resubmit with additional information if there are specific concerns that warrant reconsideration of this request.

Request for root canal treatment is DENIED. Extraction is authorized if required to relieve pain/infection. Comment: Prisoner requests root canal, tooth #14, which he states was scheduled prior to his incarceration. The jail dentist notes that gross decay of the tooth is present and has prescribed antibiotics for temporary management. The dentist indicates that the options are root canal treatment or extraction. The USMS does not routinely authorize endodontic treatment (root canal) and associated restorative work to preserve teeth during the limited duration of USMS custody. If required for relief of pain and suffering, extraction is authorized. Please resubmit with additional information if there are specific concerns that warrant reconsideration of this request.

OIMS Reviewer: OIMS OIMS Physician: PHYSICIAN Date: 2/17/2015 3:13:11 PM

Comments:

02/17/2015 3:13PM - Review Complete by Lauren.Ryszka

Request for root canal treatment is DENIED. Extraction is authorized if required to relieve pain/infection. Comment: Prisoner requests root canal, tooth #14, which he states was scheduled prior to his incarceration. The jail dentist notes that gross decay of the tooth is present and has prescribed antibiotics for temporary management. The dentist indicates that the options are root canal treatment or extraction. The USMS does not routinely authorize endodontic treatment (root canal) and associated restorative work to preserve teeth during the limited duration of USMS custody. If required for relief of pain and suffering, extraction is authorized. Please resubmit with additional information if there are specific concerns that warrant reconsideration of this request.

02/17/2015 3:12PM - Medical Review Complete - Denied by Steven.Wolf

Request for root canal treatment is DENIED. Extraction is authorized if required to relieve pain/infection. Comment: Prisoner requests root canal, tooth #14, which he states was scheduled prior to his incarceration. The jail dentist notes that gross decay of the tooth is present and has prescribed antibiotics for temporary management. The dentist indicates that the options are root canal treatment or extraction. The USMS does not routinely authorize endodontic treatment (root canal) and associated restorative work to preserve teeth during the limited duration of USMS custody. If required for relief of pain and suffering, extraction is authorized. Please resubmit with additional information if there are specific concerns that warrant reconsideration of this request.

02/17/2015 11:44AM - Review Complete by Lauren.Ryszka

IM states he was to have a root canal in Sept prior to arrest. Requeusting USMS to take him to an endodontist for the root canal now.

02/17/2015 9:23AM - Return Case: Request More Information by Lauren.Ryszka

Please delete the attachment submitted in error and return the correct documentation for review by OIMS.

02/17/2015 9:04AM - Prisoner Medical Request initiated by brenda.pitrelli

WAS SEEN BY DENTIST HERE AND WANTS TO BE SEEN FOR A ROOT CANAL. THAT HE STATES WAS SCHEDULED SEPTEMBER OR 2014 BUT WAS NOT DONE. SEE NOTE ON BACK OF PMR. Jail states they have no other documentation

RESIDENT HISTORY REPORT

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Allegany County Jail

09/01/2016 08:30

ST 45 | OPR dmb

Booking Number : 11357

Resident Name : GRANT, JEROME

Time Frame : 12/29/2015 00:00:00 - 09/01/2016 23:59:59

Date	Time	Type	ST	OPR	Receipt #	Amount	Balance
05/09/2016	15:14	Intake	1	XML	A82160	\$0.00	\$0.00

Jerome Grant 16-315
4884 State Route 195
Belmont, NY 14813

Unit

200

21

B.